

FORM FOR USE IN APPLICATIONS

FOR HABEAS CORPUS UNDER 28 U.S.C. §2254

RECEIVED

2006 MAY 15 A 9:17

Name

Anthony BlountCLERK
U.S. DISTRICT COURT
MIDDLE DISTRICT ALA

Prison Number

140048

Place of Confinement

EASTERNING CORR. FACILITY

United States District Court

Middle

District of

Alabama

Case No.

2:06cv433-MEF

(To be supplied by Clerk of U. S. District Court)

(Full name) (Include name under which you were convicted)

Anthony Blount

, PETITIONER

(Name of Warden, Superintendent, Jailor, or authorized person having custody of Petitioner)

Gwendolyn Mosely

, RESPONDENT

and

THE ATTORNEY GENERAL OF THE STATE OF

Alabama

, ADDITIONAL RESPONDENT.

(if petitioner is attacking a judgment which imposed a sentence to be served in the future, petitioner must fill in the name of the state where the judgment was entered. If petitioner has a sentence to be served in the future under a federal judgment which he wishes to attack, he should file a motion under 28 U.S.C. §2255, in the federal court which entered the judgment.)

PETITION FOR WRIT OF HABEAS CORPUS BY A PERSON IN
STATE CUSTODY

INSTRUCTIONS--READ CAREFULLY

- (1) This petition must be legibly handwritten or typewritten and signed by the petitioner under penalty of perjury. Any false statement of a material fact may serve as the basis for prosecution and conviction for perjury. All questions must be answered concisely in the proper space on the form.

The Judicial Conference of the United States has adopted, effective 1/1/83, the 8-1/2 x 11 inch paper size standard for use throughout the federal judiciary and directed the elimination of the use of legal size paper. All pleadings, etc. filed after 12/31/82 must be on 8-1/2 x 11 inch paper, otherwise we cannot accept them.

- (2) Additional pages are not permitted except with respect to the facts which you rely upon to support your grounds for relief. No citation of authorities need be furnished. If briefs or arguments are submitted, they should be submitted in the form of a separate memorandum.
- (3) Upon receipt of a fee of \$5 your petition will be filed if it is in proper order.
- (4) If you do not have the necessary filing fee, you may request permission to proceed in forma pauperis, in which event you must execute the declaration on the last page, setting forth information establishing your inability to prepay the fees and costs or give security therefor. If you wish to proceed in forma pauperis, you must have an authorized officer at the penal institution complete the certificate as to the amount of money and securities on deposit to your credit in any account in the institution.
- (5) Only judgments entered by one court may be challenged in a single petition. If you seek to challenge judgments entered by different courts either in the same state or in different states, you must file separate petitions as to each court.
- (6) Your attention is directed to the fact that you must include all grounds for relief and all facts supporting such grounds for relief in the petition you file seeking relief from any judgment of conviction.
- (7) When the petition is fully completed, the original and two copies^{*} must be mailed to the Clerk of the United States District Court whose address is
P. O. Box 711, Montgomery, Alabama 36101
- (8) Petitions which do not conform to these instructions will be returned with a notation as to the deficiency.

*If you are proceeding in forma pauperis, only the original petition needs to be filed with the Court.

PETITION

1. Name and location of court which entered the judgment of conviction under attack NONE
2. Date of judgment of conviction NONE
3. Length of sentence NONE Sentencing Judge 2/12
4. Nature of offense or offenses for which you were convicted:
UNLAWFUL POSSESSION OF A CONTROLLED
SUBSTANCE
5. What was your plea? (check one)
 - (a) Not guilty (✓)
 - (b) Guilty ()
 - (c) Nolo contendere ()

If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or indictment, give details: _____

6. Kind of trial: (Check one)
 (a) Jury () *n/a*
 (b) Judge only ()
7. Did you testify at the trial? Yes () No (☒)
8. Did you appeal from the judgment of conviction? Yes (☒) No ()
9. If you did appeal, answer the following:
 (a) Name of court ETOWAH COUNTY CIRCUIT COURT
 (b) Result denied
 (c) Date of result 6-10-05
 If you filed a second appeal or filed a petition for certiorari in the Supreme Court, give details: I FILED A WRIT OF
MANDAMUS IN THE ALABAMA COURT
OF CRIMINAL APPEALS-
10. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications, or motions with respect to this judgment in any court, state or federal? Yes (☒) No ()
11. If your answer to 10 was "yes", give the following information:
 (a)(1) Name of court ALABAMA COURT OF CRIMINAL APPEALS
 (2) Nature of proceeding PETITION FOR RECONSIDERATION
 (3) Grounds raised DENIAL OF THE RIGHT TO A
FAST AND SPEEDY TRIAL
 (4) Did you receive an evidentiary hearing on your petition, application or motion? Yes () No (☒)
 (5) Result DISMISSED
 (6) Date of result 3-25-06
 (b) As to any second petition, application or motion give the same information:
 (1) Name of court ALABAMA SUPREME COURT
 (2) Nature of proceeding WRIT OF MANDAMUS
 (3) Grounds raised DENIAL OF THE RIGHT TO A
FAST AND SPEEDY TRIAL
 (4) Did you receive an evidentiary hearing on your petition, application or motion? Yes () No (☒)
 (5) Result STRIKEN
 (6) Date of result 4-26-06

(c) As to any third petition, application or motion, give the same information:

(1) Name of Court _____

(2) Nature of proceeding _____

(3) Grounds raised _____

(4) Did you receive an evidentiary hearing on your petition, application or motion? Yes () No (☒)

(5) Result _____

(6) Date of result _____

(d) Did you appeal to the highest state court having jurisdiction the result of any action taken on any petition, application or motion:

(1) First petition, etc. Yes () No (☒)

(2) Second petition, etc. Yes () No (☒)

(3) Third petition, etc. Yes () No (☒)

(e) If you did not appeal from the adverse action on any petition, application or motion, explain briefly why you did not: _____

12. State concisely every ground on which you claim that you are being held unlawfully. Summarize briefly the facts supporting each ground.

CAUTION: In order to proceed in the federal court, you must ordinarily first exhaust your state court remedies as to each ground on which you request action by the federal court. As to all grounds on which you have previously exhausted state court remedies, you should set them forth in this petition if you wish to seek federal relief. If you fail to set forth all such grounds in this petition, you may be barred from presenting them at a later date.

For your information, the following is a list of the most frequently raised grounds for relief in habeas corpus proceedings. Each statement preceded by a letter constitutes a separate ground for possible relief. You may raise any grounds which you may have other than those listed if you have exhausted all your state court remedies with respect to them. However, you should raise in this petition all available grounds (relating to this conviction) on which you base your allegations that you are being held in custody unlawfully.

If you select one or more of these grounds for relief, you must allege facts in support of the ground or grounds which you choose. Do not check any of the grounds listed below. The petition will be returned to you if you merely check (a) through (j) or any one of these grounds.

- (a) Conviction obtained by plea of guilty which was unlawfully induced or not made voluntarily with understanding of the nature of the charge and the consequences of the plea.
- (b) Conviction obtained by use of coerced confession.
- (c) Conviction obtained by use of evidence gained pursuant to an unconstitutional search and seizure, [where the state has not provided a full and fair hearing on the merits of the Fourth Amendment claim].
- (d) Conviction obtained by use of evidence obtained pursuant to an unlawful arrest, [where the state has not provided a full and fair hearing on the merits of the Fourth Amendment claim].
- (e) Conviction obtained by a violation of the privilege against self-incrimination.
- (f) Conviction obtained by the unconstitutional failure of the prosecution to disclose to the defendant evidence favorable to the defendant.
- (g) Conviction obtained by a violation of the protection against double jeopardy.
- (h) Conviction obtained by action of a grand or petit jury which was unconstitutionally selected and impaneled.
- (i) Denial of effective assistance of counsel.
- (j) Denial of right of appeal.

A. Ground one:

*DENIAL OF THE RIGHT TO
A SPEEDY TRIAL*

Supporting FACTS (tell your story briefly without citing cases or law):

SEE

ATTACHED

PAGES

B. Ground two:

N/A

Supporting FACTS (tell your story briefly without citing cases or law):

N/A

C. Ground three: N/A

Supporting FACTS (tell your story briefly without citing cases or law):

D. Ground four: N/A

Supporting FACTS (tell your story briefly without citing cases of law):

13. If any of the grounds listed in 12A, B, C, and D were not previously presented in any other court; state or federal state briefly what grounds were not so presented, and give your reasons for not presenting them:

14. Do you have any petition or appeal now pending in any court, either state or federal, as to the judgment under attack? Yes (☒) No (☒)

15. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment attacked herein:

(a) At preliminary hearing none

(b) At arraignment and plea none

- (c) At trial NA
- (d) At sentencing NA
- (e) On appeal NA
- (f) In any post-conviction proceeding NA
- (g) On appeal from any adverse ruling in a post-conviction proceeding: NA

16. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at the same time?
Yes () No (☒)

17. Do you have any future sentence to serve after you complete the sentence imposed by the judgment under attack?
Yes (☒) No ()

(a) If so, give name and location of court which imposed sentence to be served in the future: ETOWAH COUNTY CIRCUIT COURT
MIKE

(b) And give date and length of sentence to be served in the future: _____

(c) Have you filed, or do you contemplate filing, any petition attacking the judgment which imposed the sentence to be served in the future?
Yes (☒) No ()

Wherefore, petitioner prays that the Court grant petitioner relief to which he may be entitled in this proceeding.

x Anthony Blount
Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on 5-11-06
(date)

x Anthony Blount
Signature of Petitioner

MEMORANDUM IN SUPPORT OF WRIT OF HABEAS CORPUS

The petitioner states that he is being denied his constitutional right to a fast and speedy trial by the district and circuit courts of Etowah county. The petitioner states that he and his appointed counsel has for the past year and a half filed several motions, made phone calls and sought meeting with the state on this action and or case.

The petitioner states that pursuant to United States Constitutional Amendment 6 which was made applicable to the states by the 14th. amendment of the united states constitution. This amendment gives all Americans the absolute right to a fast and speedy trial. The constitution states as follows:

The defendant's rights to a speedy trial under the constitution of the united states and constitution of alabama. (2). Whether the defendant is in custody. (3). The relative gravity of the offense charged; and (4). The relative complexity of the case.

"In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed. Which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense."

The state of alabama has breached this obligation and refuses to allow the petitioner to have compulsory process or to have any access to the cause of the allegations against him.

The petitioner states that the officer who has brought these false charges against him, has a reputation of filing false charges against defendants and now have several law suits against ^{him} some of which will cause his termination as an officer. The facts of this case shows that on the 10th. day of June 2005, Hon: James M. Shelnett, files a motion for a speedy trial herein. That said motion sit in the court without trial, or action. On the 7th. day of March 2006, the petitioner filed a pro-se motion for a speedy trial. Still no action was taken. The petitioner then filed a writ of mandamus to the court of criminal appeals seeking an order to show cause as to why this case should not be dismissed since it has been pending since the 26th. day of Oct. 2004.

On the 22nd day of March 2006, the court dismissed the petition, it stated no valid reason. On the 27th. day of March 2006, the petitioner filed a valid

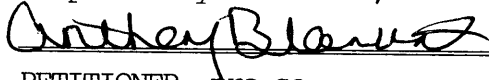
petition for writ of mandamus in the alabama supreme court, the petitioner sought dismissal on speedy trial grounds. On the 1st. day of May 2006, the court dismissed the petition.

After exhausting all state remedies, the petitioner now seek review herein. The petitioner submits with this petition documentary evidence in support of his claims and seek relief as stated herein.

The petitioner submits exhibit one which is a motion for a speedy trial filed by court appointed counse,. In exhibit two, this is a copy of the pro-se motion for a speedy trial. And in exhibit three, this is a copy of the motion for an order to show cause filed in the alabama court of criminal appeals. Also exhibit 4 is a copy of the order diemissing the petition. Exhibit 5 shows that the petitioner sought review in the alabama supreme court and said court denied relief. and finally, exhibit 6 is a copy of the letter from appointed counsel showing his attempts to get the state to try this case without any relief by the same.

Wherefore, since the petitioner has done everything to get this case resolved, the state is due to be required to dismiss this case due to it being the product of false allegations by a dirty police officer who is now under investigation for the same type acts against the petitioner.

Respectfully submitted;



PETITIONER, pro-se.

cc/abb